

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

BEFORE:

THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA

WPA 3342 of 2026

Ataur Rahaman Mandal

-versus-

The State of West Bengal and others

For the Petitioner	: Mr. Piyush Chaturvedi, Sr. Advocate Mr. Pallav Chatterjee Mr. Monajit Chakraborti	 advocates
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For the Respondent no. 2	: Mr. Sanjay Saha Mr. Raju Mondal	 Advocates
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For the State :	: Mr. Sk. Md. Galib, Sr. Govt. Advocate
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Heard on	: 27.03.2026
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Judgment on	: 27.03.2026
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Hiranmay Bhattacharyya, J.:-

1. The petitioner participated in an e-auction conducted by the District Committee for Competitive Bidding (for short "the District Committee") of minor minerals for grant of mining lease of sand vide Notice Inviting Tender dated 30th January, 2019. The petitioner was declared as the highest bidder

and thereafter deposited 1/3rd of the bid amount. The Letter of Intent (for short “LoI”) dated 28th March, 2019 was issued in favour of the petitioner in respect of sand block MKSHB-10 located in Plot No. 230(P) and 232(P) in Mouza Nekramara, J.L. No. 129 under Police Station Keshiary in the District of Paschim Medinipur for a period of five years. The petitioner claims to have deposited the rest of the bid money. The petitioner submitted a representation before the authorities praying for shifting of the sand mining block due to approach road problem. The Inspection Committee constituted by the District Committee for Competitive Bidding submitted an inspection report before the competent authority and further recommended for shifting of the sand block. Pursuant thereto the competent authority took a decision in the meeting of the District Committee dated 22nd December, 2020 to shift the mining block at Plot No. 2667(P) within Mouza Bhasra. Such decision was communicated to the petitioner vide memo dated 6th January, 2021. The Short Term Mining License (STML) for extraction of river-bed materials was granted in favour of the petitioner in respect of the shifted sand block vide memo dated 8th February, 2021. The District Committee in its meeting held on 14th December, 2022 passed an order cancelling the shifted sand blocks. The order of cancellation of the decision to shift the sand block in favour of the petitioner is the subject matter of challenge in this writ petition.

2. Mr. Chaturvedi, learned senior advocate appearing for the petitioner submits that the authorities after being satisfied with the road approach problem raised by the petitioner passed an order of shifting of the lease hold area of the sand mining block. He submits that such decision of shifting of the sand block could not have been cancelled by the authorities without affording any opportunity of hearing to the petitioner. He submits that the order cancelling the decision of shifting of the sand block has civil consequences and for such reason the petitioner ought to have been afforded an opportunity of hearing. He submits that there has been gross violation of the principles of natural justice and in support of such contention he placed reliance upon the decision

of the Hon'ble Supreme Court in the case of **Commissioner of Police, Bombay Vs. Gordhandas Bhanji** reported at AIR 1952 SC 16, **Mohinder Singh Gill & Anr. Vs. The Chief Election Commissioner** reported at AIR 1978 SC 851 and **D.K. Yadav Vs. J.M.A. Industries Ltd.** reported at 1993 (3) SCC 259. He further submits that the order of cancellation is bereft of any reasons. By placing reliance upon the decision in the case of **Subodh Kumar Singh Rathour Vs. Chief Executive Officer and Others** reported at 2024 SCC OnLine SC 1682, Mr. Chaturvedi submits that the State in its executive capacity even in a contractual field is under an obligation to act fairly and cannot practise some discrimination. He further submits that the petitioner has been discriminated against as a similarly situated enterprise namely, K and K Minerals Private Limited and another has been allowed a one time shifting by the Chairman and Managing Director, West Bengal Mineral Development and Trading Corporation Limited by an order dated January 15/16, 2026. He submits that the order cancelling the shifting of the sand block is liable to be set aside on the ground of violation of the principles of natural justice.

3. Mr. Galib, learned Senior Government Advocate submits that a LOI has been issued in favour of the petitioner requiring the petitioner to comply with certain requirements as indicated in the said LOI. He further submits that the time to comply with such requirements was extended from time to time. By referring to an order passed by the Co-ordinate Bench on 19th March, 2019 in W.P. 5166(W) of 2019 in the case of Sri Ashok Kumar Singh @ Ashoke Kumar Singh Vs. The State of West Bengal & Ors. Mr. Galib submits that an allottee of a sand block cannot ask the authorities for a new sand block which was not put up in the tender process. He submits that the authorities cancelled the decision of shifting of the sand block as the same was in violation of the provisions of the relevant rules. He submits that since the decision to cancel the shifting of the sand block was a general policy decision that applied equally to all similarly situated lessees across the District whose sand block

has been shifted previously there was no necessity to afford an opportunity of hearing. Mr. Galib contended that the petitioner does not have any vested right in the grant of mining lease and for such reason the petitioner is not entitled to an opportunity of hearing prior to cancellation of the decision to shift the sand block in favour of the petitioner. In support of such contention he places reliance upon a decision of a Co-ordinate Bench in the case of **Md. Humayun Kabir Vs. State of West Bengal and Others reported at 2022 SCC OnLine Cal 3110**. Mr. Galib further places reliance upon a decision of the Hon'ble Supreme Court in the case of **Monnet Ispat and Energy Ltd. Vs. Union of India and others reported at 2012 11 SCC 1** in support of his contention that there is no fundamental right in mining and also that no opportunity of hearing should be granted if no prejudice can be shown to have been caused to the petitioner.

4. Heard Mr. Saha, learned advocate for the Corporation. He submits that the concerned authority after taking into consideration the provisions of the relevant rules passed the order impugned. He further submits that the impugned order calls for no interference.
5. Heard the learned advocates for the parties and perused the materials placed.
6. The petitioner participated in the e-auction floated by the concerned authority for grant of mining lease in respect of a sand block and became the highest bidder. The letter of intent was issued on 28th March, 2019 in respect of a sand block within Mouza Nekramara. The petitioner's prayer for shifting of the sand mining block on account of approach road problem was found to be justified upon inspection being carried out in that regard and the prayer for shifting of the leasehold area of the sand mining block was allowed and the shifted sand block is at Mouza Bhasra being Plot No. 2667(P).
7. The Additional District Magistrate and District Land & Land Reforms Officer, Paschim Medinipur files a report dated 6th March, 2026 which is taken on record. A copy of such report has been supplied to Mr. Chaturvedi, learned senior advocate for the petitioner. It has been specifically stated in the report

that the resolution of the District Committee for competitive bidding dated 14th December, 2022 was passed to give effect to the decision of the Co-ordinate Bench of this Court in WP 5166(W) of 2019. It further states that the resolution of the DCCB was not a decision taken against the petitioner alone and it was a general policy decision that applied equally to all similarly situated persons. The report further states that after the enactment of the new sand mining policy of 2021 the District Authority has no power to allot any sand block.

8. The short question that falls for consideration is whether a decision of shifting of the sand block granted in favour of the petitioner could have been cancelled without granting any opportunity of hearing to such person.
9. The Hon'ble Supreme Court in D.K. Yadav (supra) held that the aim of the rule of natural justice is to secure justice or in other words to prevent miscarriage of justice. It was further held that the cardinal point that has to be borne in mind, in every case, is whether the person concerned should have a reasonable opportunity of presenting his case and the authority should act fairly, justly, reasonably and impartially. The application of the principles of natural justice is to see that no man should be condemned unheard and also intends to prevent the authority from acting arbitrarily affecting the rights of the concerned person. It has been further observed therein that an order involving civil consequences must be made consistently with the rules of natural justice.
10. It is not in dispute that the prayer of the petitioner for shifting of the sand block was allowed and the same was subsequently cancelled. No material has been produced before this Court to show that any opportunity of hearing was provided to the petitioner prior to cancelling and setting aside an order which was passed in favour of such person. That apart the order of cancellation is absolutely a non-speaking order. It only states that no shifting of sand block shall be allowed and previously shifted may be treated as cancelled. No

reasons in support of the order of cancellation has been reflected in the decision of the authority.

11. The authorities, however, sought to supplement the reasons by way of filing a report before this Court. The Hon'ble Supreme Court in **Gordhandas Bhanji** (supra) while dealing with a more or less identical fact situation noted that in the said reported decision an attempt was made by referring to the Commissioner's affidavit to show that this was really an order of cancellation made by him and the order was his order and not that of the Government. The Hon'ble Supreme Court observed that public orders publicly made, in exercise of a statutory authority cannot be construed in the light of the explanations subsequently given by the officer making the order of what he meant, or of what was his mind, or what he intended to do so. It was further held that public orders made by public authorities are meant to have public effect and are intended to affect the acting and conduct of those to whom they address and must be construed objectively with reference to the language used in the said order. The Hon'ble Supreme Court further held that public authorities cannot play fast and loose with the powers vested in them, and persons to whose detriment orders are made are entitled to know with exactness and precision what they are expected to do or forbear from doing and exactly what authority is making the order. The said decision shall squarely apply to the case on hand.
12. In the instant case, the respondent authorities sought to assign reasons to support the decision taken in the meeting dated 14th December, 2022 which has been deprecated by the Hon'ble Supreme Court in **Gordhandas Bhanji** (supra). That apart the decision also do not record the reasons with exactness and precision as to why the order of shifting of the sand block was cancelled.
13. The said proposition laid down in the aforesaid decision was reiterated by the Hon'ble Supreme Court in **Mohinder Singh Gill** (supra) wherein it has been held that when a statutory functionary makes an order based on certain

ground its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise.

14. Thus in order to test the propriety of the decision of the District Committee for Competitive Bidding, this Court has only to concentrate on the decision of the authority and cannot consider the additional reasons stated in the report of such authority. As observed hereinbefore that the decision taken in the meeting is a non-speaking one. Only for such reason, this Court is inclined to interfere with the said decision.
15. In **Md. Humayun Kabir** (supra) the premature termination of the lease was assailed before the Co-ordinate Bench. In paragraph 35 of the said decision the Co-ordinate Bench specifically recorded that the order impugned clearly demonstrates that the petitioner was present before the authority along with his learned counsel at the time of hearing and was granted reasonable opportunity of being heard in terms of Section 4A (3) of the Act of 1957 in passing the order. The Co-ordinate Bench further observed that there is no illegality or irregularity in the decision making process of the authority which calls for intervention of the court. It was further held that the order does not demonstrate lack of consideration of the matter by the authority. Thus in the decision of Md. Humayun Kabir (supra) the Co-ordinate bench specifically recorded that the principles of natural justice were followed and there was no infirmity in the decision making process. It is well settled that a judicial review is not an appeal from the decision of the authority but it is a review of the decision making process.
16. In **Monnet Ispat and Energy Ltd.** (supra) the recommendation in favour of Monnet to the Central Government was, in the facts of the reported case, found to be simply a proposal with certain pre-conditions and the Hon'ble Supreme Court held that for withdrawal of such proposal by the State Government, no notice was legally required to be given.
17. There is however no quarrel to the proposition of law laid down by the Hon'ble Supreme Court in **Monnet Ispat and Energy Ltd.** (supra) that there is no

fundamental right in mining. However, in the case on hand the petitioner has only questioned the cancellation of a favourable order without granting any opportunity of hearing. The said decision is distinguishable on facts and cannot assist the respondent.

18. There is no quarrel to the proposition of law laid down in **Subodh Kumar Singh Rathour** (supra) that at the stage of entering into a contract, the State acts purely in its executive capacity and is bound by the obligations of fairness and cannot practice some discriminations.
19. Since this Court is minded to remand the matter to the authority, this Court refrains from making any observation on the issue of discrimination and the petitioner is left free to raise such plea before the authority at the appropriate stage.
20. For all the reasons as aforesaid, the decision of the District Committee for Competitive Bidding held on December 14, 2022 for cancellation of the shifted sand block insofar as it relates to the petitioner under “non-registered and subsequently shifted Sand blocks” category from Mouza-Nekramara to Bhasra is quashed and set aside.
21. The District Magistrate, Paschim Medinipur, being the respondent No.3 is directed to consider the issue with regard to cancellation of the shifted sand block insofar as the petitioner is concerned afresh after affording an opportunity of hearing to the petitioner or his authorised representative and communicate the reasoned order to the petitioner as expeditiously as possible but positively within a period of 10 weeks from the date of receipt of a server copy of this order.
22. If the said authority seeks to rely upon any adverse material against the petitioner for the purpose of arriving at any decision, such material should be supplied to the petitioner well prior to the date of hearing.
23. In the event such authority is, of the opinion that it is not vested with the power to consider the said issue, such decision shall be communicated to the petitioner and the said respondent authority shall simultaneously forward the

matter to the appropriate authority, who is vested with the power to take a decision on such issue. The latter authority, immediately upon request being made by the respondent No.3, shall pass a reasoned order in accordance with law in the light of the observations made hereinbefore.

24. Accordingly, WPA 3342 of 2026 stands disposed of.
25. There will be no order as to costs.
26. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Hiranmay Bhattacharyya, J.)